

IC 35-38-4

Chapter 4. Appeals

IC 35-38-4-1

Appeals by defendant as matter of right and according to this chapter; decisions and orders reviewable

Sec. 1. (a) An appeal to the supreme court or the court of appeals may be taken by the defendant:

(1) as a matter of right from any judgment in a criminal action; and

(2) in accordance with this chapter.

(b) Any decision of the court or intermediate order made during the proceedings may be reviewed.

As added by P.L.311-1983, SEC.3.

IC 35-38-4-2

Appeals by state as provided by court rules for certain cases

Sec. 2. Appeals to the supreme court or to the court of appeals, if the court rules so provide, may be taken by the state in the following cases:

(1) From an order granting a motion to dismiss an indictment or information.

(2) From an order or judgment for the defendant, upon his motion for discharge because of delay of his trial not caused by his act, or upon his plea of former jeopardy, presented and ruled upon prior to trial.

(3) From an order granting a motion to correct errors.

(4) Upon a question reserved by the state, if the defendant is acquitted.

(5) From an order granting a motion to suppress evidence, if the ultimate effect of the order is to preclude further prosecution.

(6) From any interlocutory order if the trial court certifies and the court on appeal or a judge thereof finds on petition that:

(A) the appellant will suffer substantial expense, damage, or injury if the order is erroneous and the determination thereof is withheld until after judgment;

(B) the order involves a substantial question of law, the early determination of which will promote a more orderly disposition of the case; or

(C) the remedy by appeal after judgment is otherwise inadequate.

As added by P.L.311-1983, SEC.3.

IC 35-38-4-3

Appeals from question reserved on part of state

Sec. 3. In case of an appeal from a question reserved on the part of the state, it is not necessary for the clerk of the court to certify in the transcript any part of the proceedings and record except the pleadings, the motion to correct errors, and the judgment of acquittal. When the question reserved is defectively stated, the supreme court

or the court of appeals may direct any part of the proceedings and record to be certified to such court.

As added by P.L.311-1983, SEC.3.

IC 35-38-4-4

Effect of appeal taken by state

Sec. 4. An appeal taken by the state does not stay, or affect the operation of, the judgment in favor of the defendant until the judgment is reversed. However, if an appeal is taken by the state from an order or judgment by which the defendant is discharged before trial, the order or judgment does not constitute a bar to further prosecution of the defendant.

As added by P.L.311-1983, SEC.3.

IC 35-38-4-5

Defendants tried jointly; appeal by one or more

Sec. 5. When defendants are tried jointly, any one (1) or more of them may take an appeal. However, those who do not join in the appeal are not affected by it.

As added by P.L.311-1983, SEC.3.

IC 35-38-4-6

Stay of execution of sentence

Sec. 6. (a) An appeal to the supreme court or to the court of appeals from a judgment of conviction does not stay the execution of the sentence, unless:

(1) the punishment is to be death; or

(2) the judgment is for a fine and costs only, in which case the execution of the sentence may be stayed by an order of the court.

(b) If the punishment is to be imprisonment and a fine and costs, the execution of the sentence as to the fine and costs only may be stayed by the court.

(c) In the case of an appeal from a judgment in a capital case, the order of suspension must specify the day until which the execution of the sentence is stayed.

As added by P.L.311-1983, SEC.3.